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Washington, D.C. 20005

November 4, 1996

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Federal Communications Commission
Office of Secretary

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: Grandfathered Short-Spaced FM Stations
(MM Docket No. 96-120, RM-7651)

Dear Mr. Caton:

Submitted herewith for filing, on behalf of Carl E. Smith Consulting Engineers, Bath, Ohio, are an original and nine (9) copies of its Reply Comments in the above-referenced rulemaking proceeding.

Please direct any inquiries concerning this submission to the undersigned.

Respectfully submitted,

CARL E. SMITH CONSULTING ENGINEERS

By: 

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REPLY COMMENTS

MM DOCKET 96-120

November 4, 1996

CARL E. SMITH CONSULTING ENGINEERS

ENGINEERING AFFIDAVIT

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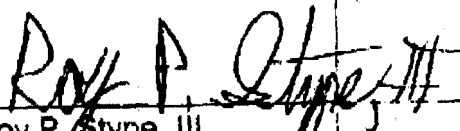
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State of Ohio)
) ss:
County of Summit)

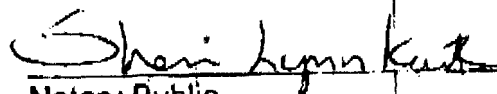
Federal Communications Commission
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Roy P. Stype, III, being duly sworn, deposes and states that he is a graduate Electrical Engineer, a qualified and experienced Communications Consulting Engineer whose works are a matter of record with the Federal Communications Commission and that he is a member of the Firm of "Carl E. Smith Consulting Engineers" located at 2324 North Cleveland-Massillon Road in the Township of Bath, County of Summit, State of Ohio.

The deponent states that the attached reply comments were prepared by him and are true of his own knowledge, except as to statements made on information and belief and as to such statements, he believes them to be true.


Roy P. Stype, III

Subscribed and sworn to before me on November 4, 1996.


Notary Public

/SEAL/

SHERI LYNN KURTZ, Notary Public
Residence: Summit County
State Wide Jurisdiction, Ohio
My Commission Expires June 14, 2000

ENGINEERING STATEMENT

This engineering statement constitutes reply comments in MM Docket 96-120, which proposes to modify the restrictions outlined in Section 73.213(a) of the FCC Rules pertaining to the modification of the facilities of pre-1964 grandfathered short spaced FM stations. It is submitted on behalf of Warmus and Associates, Inc., dba Carl E. Smith Consulting Engineers.

On October 4, 1996, the National Association of Broadcasters ("NAB") submitted reply comments in this proceeding. These reply comments contained the results of a study conducted by the NAB to attempt to estimate the maximum possible number of pre-1964 grandfathered short spaced stations on second and third adjacent channels. A review of the data contained in these reply comments disclosed a serious flaw in the procedures which were employed in this study. In particular, it has been determined that these studies utilized the present spacing requirements to identify existing short spaced stations on second and third adjacent channels, rather than the spacing requirements which existed in 1964, and were in force until they were modified in 1984 by the proceedings in BC Docket 80-90. Since the modifications made in BC Docket 80-90 significantly increased the required spacings on second and third adjacent channels, particularly where at least one of the stations was a Class B station and where both stations were Class A stations, the net effect of this flaw is that the NAB's reply comments significantly overstate the maximum possible number of pre-1964 grandfathered short spaced stations on second and third adjacent channels. Excluding the short spacing situations which comply with the 1964 spacing requirements and assuming that the NAB's listing is correct in all other regards reduces the number of pre-1964

short spaced situations on second adjacent channels from 322 to 228 and those on third adjacent channels from 138 to 96. This is an overall reduction in these short spacing situations from 460 to 324, or approximately a 30% reduction in the number of situations claimed by the NAB. Although a more detailed analysis was not conducted to determine how many stations this would leave as apparently having pre-1964 grandfathered short spacings on second or third adjacent channels, if this percentage reduction holds it would reduce the number of stations involved from 312 to approximately 220.

The 136 situations counted by the NAB which were excluded because they complied with the 1964 spacing requirements but later became short spaced because of the changes made in BC Docket 80-90 are not governed by Section 73.213(a) of the FCC Rules, but, instead, are prohibited from making any changes which reduce the current spacing below its present value. Thus, they do not appear to be within the scope of this rulemaking proceeding. Furthermore, excluding these situations from this estimate will provide a more realistic estimate of the number of stations which would be potentially impacted by the proposed changes in this proceeding as they relate to second and third adjacent channel situations.